

REMARKS

Applicant respectfully requests reconsideration of the present patent application in light of the amendments above and the appended remarks, which are responsive to the Office Action mailed September 24, 2002.

1. Correction of the Abstract

The Examiner has objected to the abstract of the disclosure based on the fact that the abstract exceeded 150 words. Applicants have amended the abstract to comply with the applicable 150 word limitation.

2. Objection to Claim 2

The Examiner has objected to Claim 2 on the basis that the word “comprises” is misleading and should be changed to “is”. Although Applicants do not necessarily agree that the term “comprises” is misleading in the context of Claim 2, Applicants have amended Claim 2 as requested by the Examiner in order to expedite prosecution of this application. Accordingly, Applicants respectfully request that the Examiner’s objection to Claim 2 be withdrawn.

3. Rejections of Claims 3 and 4 under 35 U.S.C. § 112, Second Paragraph

The Examiner has rejected Claim 3 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Furthermore, the Examiner has rejected Claim 4 on the basis that it depends from rejected Claim 3. Applicants have amended Claims 3 and 4 to more distinctly specify the claimed subject matter. Accordingly, Applicants respectfully request that the Examiner’s rejection of Claims 3 and 4 be withdrawn.

4. Rejection of Claims 23 and 24 under 35 U.S.C. § 112, Second Paragraph, and 35 U.S.C. § 101

The Examiner has rejected Claims 23 and 24 under 35 U.S.C. § 112, Second Paragraph, and 35 U.S.C. § 101 on the basis that these claims improperly combine two separate statutory classes of invention in a single claim. Applicants have amended these claims so that they each only cover a single statutory class of invention. Accordingly, Applicants respectfully request that the Examiner's rejection of Claims 23 and 24 be withdrawn.

5. Rejections of Claims 1 – 25 under 35 U.S.C. § 102(e) and 35 U.S.C. § 103

The Examiner has rejected Claims 1-19 and 21-25 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,024,699 to Surwit et al. ("*Surwit*"). Furthermore, the Examiner has rejected Claim 20 under 35 U.S.C. § 103 as being obvious in light of *Surwit*. Applicants assert that they invented and reduced to practice the subject matter claimed in the present application prior to the March 13, 1998, filing date of *Surwit*. Applicants have enclosed an appropriate declaration under 37 C.F.R. 1.131 to support this assertion. Accordingly, Applicants respectfully request that the Examiner's rejection of Claims 1-19 and 21-25 under 35 U.S.C. § 102(e) and of Claim 20 under 35 U.S.C. § 103 be withdrawn.

6. Conclusion

The foregoing is submitted as a full and complete response to the Office Action mailed September 24, 2002. The foregoing amendments to the claims, when taken in conjunction with the appended remarks, are believed to have placed the present application in condition for allowance, and such action is respectfully requested.

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The Applicant encourages telephonic interviewing in order to facilitate prompt disposals of cases when appropriate. The Examiner is invited to contact the undersigned attorney at his direct dial number of (404) 881-7728 in order to facilitate such disposal.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner For Patents, Washington, DC 20231, on January 24, 2003.

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In the Claims:

2. (Amended) The method of claim 1, wherein the remote computer [comprises] **is** a server that the portable health assistant periodically accesses.

3. (Amended) The method of claim 1, wherein [receiving the patient data collected by the portable health assistant in accordance with the protocol comprises: receiving the patient data at a server remotely accessible by the portable health assistant; and
at the remote computer, receiving a transfer of the patient data from the server to the remote computer over a computer network.]

said portable health assistant is configured to transfer the patient data to said remote computer via a computer network.

4. (Amended) The method of claim 3, wherein the computer network comprises an Internet [and wherein receiving the transfer of the patient data from the server to the remote computer comprises receiving the patient data using a Web browser running on the remote computer].

23. (Amended) A computer-readable medium [having] **storing** computer-executable instructions for performing the [method of claim 11] **steps of:**

reminding a patient when to perform a task included in an order for treating the patient received from the clinician during a first periodic connection with a remote server;

receiving from the patient an indication of a symptom experienced by the patient; and

sending notification of the symptom to the remote server during a second periodic connection with the remote server so that the clinician can evaluate a need for a new order.

24. ~~(Amended)~~ A portable health assistant ~~that is~~ adapted to perform the [method of claim 11] steps of:

reminding a patient when to perform a task included in an order for treating the patient received from the clinician during a first periodic connection with a remote server;

receiving from the patient an indication of a symptom experienced by the patient; and

sending notification of the symptom to the remote server during a second periodic connection with the remote server so that the clinician can evaluate a need for a new order.